

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 75393

Robert Leon Temple
Linda P. Temple

1307 Goodwood Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on June 30, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 3-6-401, 402; 13-7-310, 312 Zoning Commissioners Policy Manual (ZCPM); Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1A, 1B01.1D, 428, 408, 405A, failure to comply with Hearing Officers ruling, failure to cease service garage activities, failure to cease outside storage of untagged/inoperative vehicles, failure to cease use of property as an open dump/junk yard, failure to cease use of property as a contractors storage yard on residential property zoned DR 10.5 known as 1307 Goodwood Road, 21221.

On May 17, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Christina Frink issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2,000.00 (two thousand dollars).

The following persons appeared for the Hearing and testified: Robert Temple, Respondent; Mr. Lynch, Mr. Willie Russell, Complainants; and Christina Frink, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on August 18, 2008 for removal of untagged/inoperative motor vehicles, to cease service garage activities, and for removal of open dump/junk yard. Citations were issued on March 30, 2009 and April 27, 2009 but not enforced. Another Citation for the same violations was issued on May 30, 2009, with a Final Order dated June 22, 2009 enforcing the Citation with a civil penalty of \$6,000.00 that could be reduced to \$500.00 if the violations were corrected by July 20, 2009. The penalty was reduced to \$500.00 after re-inspection found the property in compliance with code requirements. Another Citation for failure to cease illegal service garage activity was issued on September 15, 2009, with a Final Order dated October 13, 2009 enforcing the Citation with a \$2,000.00 civil penalty. This Citation was issued on May 17, 2010.

B. Inspector Christina Frink testified that she inspected the property on April 8, 2010 after receiving a complaint about automobile service garage activities. She testified that her inspection found untagged vehicles and scattered trash, and that she walked the property with Respondent Robert Temple and identified for him what items needed to be removed. She testified that she was not aware of the prior enforcement orders and gave Respondent a regular Correction Notice. Inspector Frink further testified that re-inspection on May 4, 2010 found untagged vehicles still on the property, and that she observed Respondent Robert Temple working on a vehicle. Re-inspection on June 29, 2010 found all untagged vehicles removed but some minor junk and debris and a cement mixer remaining on the property, and an untagged recreational camper vehicle in the rear of the property.

C. Complainant Willie Russell testified that Respondent has never complied with the previous code enforcement orders and that he has continued to bring untagged vehicles to the property and continued to work on cars. Mr. Russell testified that another neighbor has complained to him about the activities.

D. Respondent Robert Temple testified that he was in compliance in January and February of 2010. He testified that he is now working in Chase and that he rents a property there and does all his repair activity there. He requested abatement of previous fines. He supplied a copy of a commercial lease for property on Carroll Island Road. The lease is not signed by the landlord, is dated April 2007,

2010 and provides that the lessee “shall use and occupy the premises for the operation of towing and vehicle storage” and “shall be used for no other purpose.” Even if this or a similar lease has been executed, it does not provide service garage facilities for Respondent to use, so this Hearing Officer does not find the lease pertinent to this case.

E. Photographs in the file taken April 8 show at least eight vehicles parked outside on the property, and show a vehicle raised up on a lift inside a garage bay. Photographs taken May 4 show a vehicle up on a high lift in the garage with a wheel removed. The evidence clearly shows that despite prior civil penalties and his prior commitments to cease this activity, Respondent has continued to conduct illegal service garage activities on his residential property.

F. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). An inoperative motor vehicle is defined as “Any motor vehicle that cannot be operated in its existing condition because the parts necessary for operation, including but not limited to tires, windshield, engine, drive train, driver’s seat, steering wheel or column, or gas or brake pedals, are removed, destroyed, damaged or deteriorated. BCZR Section 101.1. The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Automotive service garages are not permitted in residential zones; a residential garage can only be used for the storage of private motor vehicles and cannot be used to repair or equip vehicles. BCZR Section 101.1, Section 1B01.1.

G. Photographs show car parts and other junk and debris strewn and piled throughout the yard. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310. Photographs taken June 29 show some improvement, with no untagged vehicles except the large recreational camper vehicle at the rear of the property. County zoning regulations allow the outside storage of one recreational vehicle on a residential lot, but require that the vehicle have a current license. BCZR Section 415A.1.

H. Photographs show some contractor and service garage equipment still being stored outside including a cement mixer and a car lift. Under Baltimore County Zoning Regulations, a contractor's equipment storage yard is the use of any space, inside or outside a building, for the storage or keeping of contractor's equipment or machinery, including building materials storage. BCZR Section 101.1. The zoning regulations do not permit use of residential property for a contractor's equipment storage yard. BCZR Section 102.1 ("No land shall be used or occupied and no building or structure shall be erected, altered, located or used except in conformity with these regulations...."); BCZR Section 1B01.1, General use regulations in D.R. Zones; see BCZR Article 2, Schedule of Special Exceptions, 2 Attachment 1:1 (chart showing this use prohibited in all residential zones; use permitted by special exception in B.R. zone, and permitted in M.L. and M.H. zones). All contractor's equipment and building materials must be removed from the yard.

I. The evidence presented clearly shows that even though they have actual notice and knowledge that their activities are prohibited, Respondents have continued to operate a service garage business from this residential property, and have improperly stored multiple inoperative vehicles, equipment, and used auto parts outside on the property. This violates zoning regulations and harms other residents of the community, who are entitled to enjoy their residential properties without the intrusion of these commercial activities. Respondent has failed to keep the commitment he made at the prior two Hearings to cease this violation. An additional civil penalty will be enforced for these violations, and the County will be authorized to enter the property throughout the next nine months to remove impermissible junk, debris, auto parts, automotive repair equipment, and untagged or inoperative vehicles, at Respondents' expense.

J. Because Respondents have a clear history of resuming improper service garage activities after code enforcement action is completed, the County will also be directed to re-inspect this property on a regular basis for the next nine months. If re-inspection finds continued or repeated violations, the County may remove impermissible items as noted above, and Respondents will be subject to immediate Citation with possible additional civil penalty for the new violations. Because compliance is the goal of code enforcement, the civil penalty will be reduced if the violations are corrected within the time provided below.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$3,000.00 (three thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$300.00 (three hundred dollars) if the remaining violations are corrected by August 16, 2010, with the recreational vehicle properly tagged or removed from the property; all contractor's equipment removed; all car parts, junk, and debris removed; and all untagged vehicles removed from this residential property.

IT IS FURTHER ORDERED that after August 16, 2010, the County may enter the property for the purpose of removing all untagged vehicles, contractor's equipment, car parts, junk, trash and debris from the property, at the expense of the property owners, AND that the County may enter the property for this purpose at any time during the nine month period between the date of this Order and May 19, 2011, if re-inspection finds continued or repeated code violations.

IT IS FURTHER ORDERED that between the date of this Order and May 19, 2011, the County shall re-inspect this property for compliance with code requirements, periodically and at least once per month, due to Respondents' demonstrated and deliberate disregard for zoning requirements and previous code enforcement orders.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 20th day of July 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf